

General Information Letter: Illinois tax treatment of fringe benefits and contributions to employee benefit funds generally follows the federal income tax treatment of such benefits and contributions.

August 29, 2001

Dear:

This is in response to your letter dated August 24, 2001 in which you state the following:

Each year xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx updates its files regarding wage/tax reporting to ensure the continued compliance of our clients with the various taxing jurisdictions' guidelines. We would greatly appreciate it if you would complete the attached survey regarding the taxability of IRC Section 125 Cafeteria Plans.

If your state/commonwealth guidelines regarding the taxability of IRC Section 125 Cafeteria Plan Benefit employee deductions default to Federal guidelines, without exception, please type "YES" next to the statement below and provide your Name, Title, Telephone Number and E-mail address. If you default to Federal, no further action is required regarding completion of the survey, only your reply to this e-mail confirming the information you have provided.

If your state/commonwealth does not default to federal guidelines, please complete the attached survey questions and reply via e-mail at xxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

Your response will be most beneficial if received by us no later than September 25, 2001. If you have any questions, please contact my office at (973) 974-7611.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill.Adm.Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department and do not constitute a statement of policy that either applies, interprets or prescribes tax law.

Response

Your survey has received replies from this office in the past. There are no changes in our answers, which are as follows:

Illinois guidelines do follow federal law regarding Section 125 Cafeteria Plans, without exception.

1. Employee deductions for accidental Death & Dismemberment Benefits plan are not taxable and not reportable.
2. Employee deductions for Long Term Disability Plan are not taxable and not reportable.

3. Employee chooses not to participate in a given benefit plan and is given additional cash for "opting out" of the benefit. The cash payment is fully taxable and reportable.
4. Employee deductions into a Dependent Care Flexible Spending Arrangement are not taxable and not reportable.
5. Employee deductions for a Dental Benefit Plan are not taxable and not reportable.
6. Employee deductions into a group Legal Benefit Plan are fully taxable and reportable.
7. Employee deductions into a Medical Benefit Plan are not taxable and not reportable.
8. Employee deductions into a Medical Flexible Spending Arrangement are not taxable and not reportable.
9. Employee deductions for Group Term Life Insurance are not taxable and not reportable.
10. Employee deductions used to buy additional vacation days are not taxable and not reportable.
11. Employee sells extra vacation days. The proceeds are fully taxable and reportable.
12. Employee deductions into a vision plan are not taxable and not reportable.
13. Employee deductions into a Whole Life or other Life Insurance Benefit Plan are not taxable and not reportable.
14. Employee deductions for Misc. or other benefits plans under a Section 125 Cafeteria Plans are not taxable and not reportable.
15. Employee Deductions into an Adoption Assistance Spending Arrangement are fully taxable and fully reportable.

Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Matthew S. Crain
Staff Attorney -- Income Tax